

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:11-CV-197-H

THE ROANOKE VALLEY RESCUE)
SQUAD, INC.,)
)
Plaintiff,)
)
v.) **ORDER**
)
CERTIFIED AMBULANCE GROUP, INC.,)
)
Defendant.)

This matter is before the court on plaintiff's motion to amend complaint [DE #71], to which defendant responded in opposition. This matter is now ripe for review. Also pending before the court are a motion to seal medical records [DE #73], a motion to exclude portions of an expert report [DE #65], a motion for summary judgment [DE #68], and a motion to strike defendant's reply in support of summary judgment [DE #77].

Rule 15 directs that leave to amend shall be freely given when justice so requires. Fed. R. Civ. P. 15(a)(2). "In the absence of any apparent or declared reason-such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.-the leave sought

should, as the rules require, be 'freely given.'" Foman v. Davis, 371 U.S. 178, 182 (1962).

Plaintiff's proposed amended complaint contains new allegations against defendant and includes new facts which were uncovered during the course of discovery. Plaintiff has shown good cause for its late filing of this motion because voluminous new evidence was uncovered late in discovery. Where leave to amend should be freely given, see Foman, 371 U.S. at 182, good cause having been shown, plaintiff's motion to amend is GRANTED [DE #71]. Plaintiff shall file and serve, within seven days from date of entry of this order, the amended complaint in the form now attached as Exhibit 1 to plaintiff's motion to amend.

Also pending before the court is plaintiff's unopposed motion to seal medical records. Pursuant to Local Rule 79.2 and the Health Insurance Portability and Accountability Act, and for good cause shown, the motion is GRANTED [DE #73]. However, plaintiff must file said records on the CM/ECF system.¹ Should plaintiff continue to have trouble using CM/ECF, counsel is advised to contact the court's civil case manager.

Where the new complaint may change the parties' arguments concerning the other pending motions in this case, they are DISMISSED without prejudice [DE #65, 68, 77]. The case is referred to United States Magistrate Judge Kimberly A. Swank for

¹ Plaintiff may wish to refer to Part T of the CM/ECF Policy Manual, available at <http://www.nced.uscourts.gov/pdfs/cmecfPolicyManual.pdf>.

entry of a new scheduling order that will allow an abbreviated time for the parties to re-file any motions as necessary.

This 30th day of December 2013.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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